

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-v-

SHMUEL ZARZAR,

Defendant.

18-CR-177 (JMF)

MEMORANDUM OPINION
AND ORDER

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JESSE M. FURMAN, United States District Judge:

On August 4, 2020, the Court issued a Memorandum Opinion and Order, familiarity with which is presumed, denying Defendant Shmuel Zarzar’s motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) based on the COVID-19 pandemic. *See* ECF No. 53. Zarzar now renews his motion (or, in the alternative, brings a new motion), citing “an explosion of positive Covid-19 cases” at FCI Fort Dix, where he is detained. ECF No. 54, at 1.

Upon review of the parties’ submissions, Zarzar’s new motion is DENIED. The outbreak at Fort Dix is certainly deeply troubling, but it provides no cause to reconsider the Court’s earlier ruling (which was based on many reasons aside from the absence of COVID-19 in the facility at the time), substantially for the reasons stated in the Government’s opposition. *See* ECF No. 59. For one thing, Zarzar himself tested positive for the virus and has apparently recovered, likely leaving him in less danger from the disease than he was in at the time of the Court’s earlier decision. *See United States v. Matera*, No. 02-CR-743 (JMF), ECF No. 452, at 1-2 (S.D.N.Y. June 3, 2020). And while Zarzar cites two medical procedures that were delayed due to the outbreak, he has apparently received one since filing his motion, and the other does not appear to be urgent. *See* Opp’n 4.¹ In

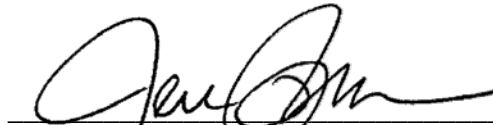
¹ At the Court’s direction, *see* ECF No. 55, Zarzar filed a supplemental submission regarding his medical condition and attaching medical records. Because they contain personal medical information, the Clerk of Court will file and maintain the letter and attachments under seal.

any event, to the extent that Zarzar takes issue with the quality or timeliness of the medical care he is receiving, he has an alternative remedy that is more appropriate than shortening his well-deserved sentence: a civil suit in the district of confinement under 28 U.S.C. § 2241. *See Matera* Order 2.

In short, considering the factors set forth in 18 U.S.C. § 3553(a), the Court once again “concludes that compassionate release is unwarranted.” ECF No. 53, at 2. Accordingly, Zarzar’s motion is DENIED. The Clerk of Court is directed to terminate ECF No. 54.

SO ORDERED.

Dated: November 30, 2020
New York, New York



JESSE M. FURMAN
United States District Judge